

**REMARKS**

Claims 22-42 are pending. By this Amendment, claims 22-26, 28-33, 35-40 and 42 are amended, and claims 1-21 are cancelled without prejudice or disclaimer. No new matter is added.

Claims 22-26, 28-33, 35-40 and 42 are amended to improve form. Support for the claims is found in the Disclosure as originally filed.

For the following reasons, reconsideration is respectfully requested.

**Claim Rejection Under 35 U.S.C. § 112**

Claims 4, 5, 11, 25, 26, 32, 33, 39 and 40 are rejected under 35 U.S.C. § 112, second paragraph. This rejection of cancelled claims 4, 5 and 11 is moot. Regarding pending claims 25, 26, 32, 33, 39 and 40, the respective claims are amended to obviate the rejection. Withdrawal of the rejection is respectfully requested.

**Claim Rejection Under 35 U.S.C. § 101**

Claims 8-13 and 29-35 are rejected under 35 U.S.C. § 101. This rejection of cancelled claims 8-13 is moot. Regarding pending claims 29-35, although deemed unnecessary, claim 29 is amended to obviate to rejection.

Alternatively, as set forth in the Interim Guidelines for Examiner of Patent Application for Patent Subject Matter Eligibility, p. 52 and the Manuel of Patent Examining Procedure §2106 (IV)(B)(1)(a), claims are considered compliant with 35 U.S.C. §101 where a data structure "defines structural and functional interrelationships between the data structure and the computer

software and hardware components which permit the data structure's functionality to be realized." This test reflects the understanding of patentable data structures as set forth by the Federal Circuit in *In re Lowry*, 32 F3d 1579, 1584, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) that, "[m]ore than mere abstractions, the data structures are specific electrical or magnetic structural elements in a memory." As such, and as distinguished from compilations of music, functional relationships between the stored data elements which are realized by an apparatus define an invention within the meaning of 35 U.S.C. §101.

Consistent with this definition of functional relationships, claim 29 recites, among other elements, the data structure that "includes a main data and a control data, the control data is recorded in a specific area of the recording medium, and includes a playback speed information and a maximum transfer rate information specifying the a maximum transfer rate needed by an application, wherein the playback speed information is distinguished from the maximum transfer rate information, and a playback speed of the playback speed information is for suitably reproducing a main data" As such, claim 29 recites a substantive functional relationship between the stored elements, which has been further reinforced through the amendment to reflect compliance with 35 U.S.C. §101.

Therefore, it is respectfully submitted that claim 29 remains compliant or complies even more with 35 U.S.C. §101. Claims 30-35 are deemed compliant with 35 U.S.C. §101 for at least similar reasons. Withdrawal of the rejection is respectfully requested:

**Claim Rejection Under 35 U.S.C. § 102**

Claims 1-3, 7-10, 12-24, 28-31, 35-38 and 42 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tozaki et al. (US 7,398,010). This rejection as to cancelled claims 1-3, 7-10 and 12-21 is moot. This rejection as to pending claims 22-24, 28-31, 35-38 and 42 is respectfully traversed.

It is respectfully submitted that Tozaki fails to disclose or suggest a method of recording data on a recording medium comprising recording a control information on a specific area of the recording medium, the control information including a playback speed information and a maximum transfer rate information specifying a maximum transfer rate needed by an application, wherein the playback speed information is distinguished from the maximum transfer rate information, and a playback speed of the playback speed information is for suitably reproducing a main data; and recording the main data in a main data area, as recited in claim 22.

Also, it is respectfully submitted that Tozaki fails to disclose or suggest a recording medium comprising a plurality of areas, including a lead-in area, and having a data structure, wherein the data structure includes a main data and a control data, the control data is recorded in a specific area of the recording medium, and includes a playback speed information and a maximum transfer rate information specifying a maximum transfer rate needed by an application, the playback speed information is distinguished from the maximum transfer rate information, and a playback speed of the playback speed information is for suitably reproducing a main data, as recited in claim 29.

Also, it is respectfully submitted that Tozaki fails to disclose or suggest a method of reproducing data from a recording medium the comprising reading a control information from a

specific area of the recording medium, the control information including a playback speed information and a maximum transfer rate information specifying a maximum transfer rate needed by an application, wherein the playback speed information is distinguished from the maximum transfer rate information, and a playback speed of the playback speed information is for suitably reproducing a main data; and reproducing the main data recorded in a main data area in response to the playback speed information and/or the maximum transfer rate information, as recited in claim 36.

Instead of the recited playback speed information, or the playback speed of the playback speed information that is for suitably reproducing a main data, Tozaki discloses a reading rate or reading rate information of a DVD (see, for example col. 14, lines 36-44 of Tozaki). Tozaki also refers to a data reading rate that is the reading linear velocity (or the rotation number) of a disk in col. 1, lines 60-62 and col. 2, lines 16-19.

Despite such distinguishable disclosure in Tozaki, the Examiner asserts in the Office Action that “recording physical format information (202) in a lead-in area of the optical disc, the physical format information (20) including lowest reading rate information, the lowest reading rate information being set for each DVD on the basis of the compressing rate of the video information and the audio information recorded on the whole of the DVD(1) so as to reproduce the whole portion of one DVD(1) at a same linear velocity,” discloses the claimed playback speed.

That is, although the Examiner asserts that the “playback speed” claimed in claims 22, 29 and 36 is the same with the “reading rate” of Tozaki, the evidence in Tozaki fails to support this assertion because Tozaki discloses that the “reading rate” of Tozaki is related to the speed of

reading data from the disk in the sense of a linear velocity corresponding to a rotational velocity of the disk used in the reproduction of the (A/V) data recorded in the disc. That is, the recited playback speed is not the speed of reading data from the disk of Tozaki, but rather, is the speed of reproducing (i.e., playing) the data, which may be A/V data, for example. Thus, the recited playback speed is related to a speed for treating the data, such as the A/V data, to display the video on a screen and to output the audio through an output device, and is distinguishable from the reading rate of Tozaki.

By way of review, it is noted that the Disclosure of this Application notes that the playback speed (transfer rate) information may be recorded as a ratio thereof to a transfer rate of digital TV broadcast stream of 36Mbps (hereinafter this transfer rate is denoted by 1X), and the playback speed (or transfer rate) is related to the "digital TV broadcast stream of 36Mbps," which is the speed for treating the data for display on a TV screen (for example, Page 4 lines 28-31 of the Disclosure). Furthermore, Page 5 lines 15 to 19 of the Disclosure of this Application notes that the playback speed (transfer rate) information is obtained from one byte at the 17-th byte or four bytes at the 32-th byte of the disc information.

In other words, the Disclosure of this Application clearly distinguishes the "rotate speed of the disc" from the playback speed. Further, such distinction is recited in the claims by the playback speed information being distinguished from the maximum transfer rate information, of claim 22, and similarly of claims 29 and 36. Accordingly, it is clear that the disclosed "reading rate" of the Tozaki is distinguishable from the recited playback speed of claims 22, 29 and 36. Accordingly, Tozaki fails to disclose or suggest each and every feature of claims 22, 29 and 36.

Based on at least the above, claims 22, 29 and 36 are patentably distinguishable over the applied reference to Tozaki. Claims 23, 24 and 28, which depend from claim 22; claims 30, 31 and 35, which depend from claim 29; and claims 37, 38 and 42, which depend from claim 36, are likewise patentably distinguishable over the applied reference for at least the reasons discussed above, and for the additional features they recite. Withdrawal of the rejection is respectfully requested.

**Claim Rejections Under 35 U.S.C. § 103**

Claims 4, 5, 11, 25, 26, 32, 33, 39 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tozaki, in view of Mishima et al. (US 7,343,083). The rejection as to cancelled claims 4, 5 and 11 is moot. The rejection of pending claims 25, 26, 32, 33, 39 and 40 is respectfully traversed.

As discussed above, Tozaki fails to disclose or suggest each and every feature of claim 22, from which claims 25 and 26 depend; claim 29, from which claims 32 and 33 depend; and claim 36, from which claims 39 and 40 depend. As Mishima fails to remedy the deficiencies of Tozaki, claims 25, 26, 32, 33, 39 and 40 are patentably distinguishable over the applied references and their combination for at least the reasons discussed above and/or for the additional features they recite. Withdrawal of the rejection is respectfully requested.

Claims 6, 27, 34 and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tozaki, in view of Kojima et al. (US 5,953,484). The rejection as to cancelled claim 6 is moot. The rejection of pending claims 27, 34 and 41 is respectfully traversed.

As discussed above, Tozaki fails to disclose or suggest each and every feature of claim 22, from which claim 27 depends; claim 29, from which claim 34 depends; and claim 36, from which claim 41 depends. As Kojima fails to remedy the deficiencies of Tozaki, claims 27, 34 and 41 are patentably distinguishable over the applied references and their combination for at least the reasons discussed above and/or for the additional features they recite. Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above amendment and/or remarks, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Seth S. Kim, Reg. No. 54,577, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 10/543,129  
Amendment dated March 13, 2009  
Reply to Office Action of December 15, 2008

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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